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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 10/687,323 | 10/16/2003 | Allan J. Wildey | 900260.90196 | 8773 |
| 26710 | 7590 | 05/26/2005 | EXAMINER | |
| QUARLES & BRADY LLP 411 E. WISCONSIN AVENUE SUITE 2040 MILWAUKEE, WI 53202-4497 | | | | SELF, SHELLEY M |
| ART UNIT | | PAPER NUMBER | | |
| | | | | 3725 |

DATE MAILED: 05/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/687,323 | WILDEY, ALLAN J. | |
| | Examiner | Art Unit | |
| | Shelley Self | 3725 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on ____.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) Claim(s) 11 and 14-17 is/are allowed.
- 6) Claim(s) 1,3-5,8-10,12,13 and 18 is/are rejected.
- 7) Claim(s) 2,6 and 7 is/are objected to.
- 8) Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on ____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All
 - b) Some *
 - c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. ____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

| | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input checked="" type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date ____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

Claims 1-8, 13 and 18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

There are insufficient antecedent bases for the following:

“*the component*” (clm. 1, line 11)

“*said head*” (clm. 10)

“*the reducing width*” (clm. 12, 13)

Regarding claim 2, it is unclear what “its” refers to (line 4), i.e.; does “its” refer to the entire width of the stump or the entire width of the reducing width of the drum blade.

Clarification is required.

With regard to claims 3, 8, 13 and 18, it is unclear what is meant by, “to at or near”.

Clarification is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1, 4, 5, 8 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Itoh (6,105,351). With regard to claims 1 and 9, Itoh discloses a disc saw felling head and method comprising: a rotating member (fig. 1) having a generally vertical axis of rotation when cutting (fig. 2), the rotating member including: an upper disc (3) saw blade having teeth distributed around an outer circumference of the blade (3) to define an upper cutting width for severing when the disc saw blade is rotated and advanced; and a lower reducing drum blade (4) having a reducing width which presents a generally circular cutting swath which extends downwardly from the disc saw blade so as to reduce the height of the material cut after the disc saw blade has severed the material by advancing the drum blade (4) generally horizontally through the workpiece; a support for the rotating member (fig. 1)); and at least one motor (2) coupled to the rotating member capable of rotating both blades of the rotating member.

As to claim 9, the method of harvesting trees, Itoh could be used to accomplish the claimed method as noted above, Itoh clearly discloses the structure necessary to accomplish the method.

With regard to claims, 4 and 5, Itoh discloses the drum blade (4) is coaxial with the disc saw blade (3) and the drum blade (4) is rotated by the same motor as the disc blade (3).

With regard to claim 8, as best as can be understood, Itoh discloses the drum blade (4) reduces the height of the stump.

Allowable Subject Matter

Claims 11 and 14-17 are allowed.

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Claims 2, 6 and 7 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 3, 12, 13 and 18 would be allowable based on their dependency to claims indicated as containing allowable subject matter and if the claims were re-written to overcome the 35 U.S.C. 112 rejections.

Claim 10 contains allowable subject matter and would be allowable if rewritten to correct the 35 U.S.C. 112 rejection(s).

The following is a statement of reasons for the indication of allowable subject matter: The prior art of record does not disclose a disc saw felling head having *a butt plate* for supporting cut trees, an upper disc saw blade and *lower reducing drum blade* wherein the reducing width of the drum blade extends downward, and wherein the *disc saw blade is significantly larger* than the drum blade or a step of *accumulating trees on a butt plate* in combination with the rest of the claimed limitations as set forth in claims 2, 6, 7, 10 and 11.

The prior art of record, Kurelek (5,931,210) discloses a disc saw felling head for harvesting trees. Kurelek discloses a supporting frame (fig. 3), butt plate (4), and circular disk saw (2). Kurelek however does not disclose any additional or lower blades, i.e., Kurelek fails to disclose or nearly suggest a lower reducing blade. Accordingly, Kurelek fails to anticipate or render obvious the claimed invention.

Itoh discloses a disc saw felling device for harvesting. Itoh discloses the use of multiple circular cutting disks (3, 4) coaxially displaced and coupled to a motor/engine (2) for rotating the discs (3,4) to cut or shear vegetation. Itoh fails to disclose any butt plate (i.e., structure

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which allows for accumulation of cut trees during harvesting). Because Kurelek is drawn to felling or harvesting trees and Itoh is drawn to trimming/harvesting of small vegetation, the references are not analogous art and thus no obvious combination of the references can be made. The references lack any positive motivation for combination.

As to the disc saw blade being larger than the drum blade, Applicant has clearly defined such dimensions to be necessary for ensuring efficiency of severing the tree (Disclosure, pg. 8, paragraph 26 to pg. 9).

Therefore, Neither Itoh, alone or in combination with Kurelek or other prior art of record, renders the claimed invention obvious. Thus claims 2, 6, 7, 10 and 11 contain allowable subject matter.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shelley Self whose telephone number is (571) 272-4524. The examiner can normally be reached Mon-Fri from 8:30am to 5:00pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's Supervisor, Derris Banks can be reached at (571) 272-4419. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9306 for regular and After Final communications.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR

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system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SSelf
May 23, 2005



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SUPERVISORY PATENT EXAMINER
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